

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 20A

FACSIMILE FILING

(a) Definitions.

(1) "Facsimile filing" means the facsimile transmission of an original document which is received in the original document's entirety by the appellate court clerk and filed by the clerk.

(2) "Facsimile machine" means a device capable of sending a facsimile transmission using the international standard for scanning, coding, and transmission established for Group 3 machines by the Consultative Committee of International Telegraphy and Telephone of the International Telecommunications Union in regular resolution. Any facsimile machine used to send documents to a court must send at an initial transmission speed of no less than 4800 baud and be able to generate a transmission record.

(3) "Facsimile transmission" is the transmission of a document by a system that encodes a document into electrical signals, transmits these electrical signals over a telephone line, and reconstructs the signals to print a duplicate of the original document at the receiving end.

(4) "Sender" is the person or entity sending the facsimile transmission to the court.

(5) "Transmission record" means the document printed by the sending facsimile machine stating the telephone number of the receiving machine, the number of pages sent, the

transmission time and date, and an indication of any errors in transmission.

(b) Filing procedures.

(1) The appellate court clerk shall accept for filing by facsimile transmission only those papers designated in subparagraph (b) (4) of this rule. No other papers shall be filed by facsimile transmission, except as provided in subparagraph (b) (5) of this rule.

(2) Each document filed by facsimile transmission shall be accompanied by the uniform cover sheet set forth in Appendix A to the appellate rules stating: the caption of the case; the appellate docket number; the title of the transmitted document; the number of pages of the facsimile transmission (including the cover sheet); the sender's name, address, voice telephone number, and facsimile telephone number; and the date of the facsimile transmission. The cover sheet shall also contain clear and concise instructions as to the filing of the transmitted document.

(3) The filing of the original document shall not be required after facsimile filing. The sender shall retain the original document in the sender's possession or control during the pendency of the action and shall produce such document upon request by the court or any party to the action. Upon failure to produce such document, the court may strike the document filed by facsimile transmission.

(4) Only the following documents may be filed in an appellate court by facsimile

transmission:

- (a) copy of notice of appeal served on the appellate court clerk by the trial court clerk;
- (b) motion for extension of time within which to file transcript of the evidence;
- (c) request from trial court clerk for extension of time within which to file appellate record;
- (d) motion to correct, modify, or supplement record;
- (e) motion relating to bond;
- (f) motion for extension of time to file brief;
- (g) motion to waive page limitation on brief;
- (h) motion to submit case on briefs;
- (i) motion relating to oral argument;
- (j) motion for continuance;
- (k) motion or stipulation to dismiss appeal;

(l) motion to withdraw as counsel of record;

(m) response to any motion listed in this subparagraph;

(n) response to show cause order entered by the appellate court.

For purposes of subparagraph (b)(4), “motion” and “response” shall include any affidavit, exhibit or proposed order submitted in support thereof.

(5) Notwithstanding subparagraph (b)(4), the appellate court, in its discretion, may direct the appellate court clerk to accept any document for filing by facsimile transmission if the court finds that extraordinary circumstances necessitate facsimile filing.

(6) No facsimile filing shall exceed ten (10) pages in length, including the cover sheet, unless authorized by the court. A facsimile filing may not be split into multiple facsimile transmissions to avoid this page limitation. All documents filed by facsimile transmission shall comply with all applicable rules of court, including, without limitation, rules governing the content and form of the papers, and the service of all papers.

(7) The original document sent by facsimile transmission shall be on letter-sized paper (8 1/2 by 11 inches). Originals on larger-sized paper may be reduced prior to facsimile transmission if the reduction to 8 1/2 by 11 inch paper renders a legible and complete copy of the original.

(8) The clerk is not required to notify the sender by return facsimile transmission or voice telephone call that the facsimile document has been received by the clerk or that the facsimile document has not been received in its entirety. This provision shall not relieve the clerk of any notice requirements imposed by law or by the court.

(c) Effect of facsimile filing.

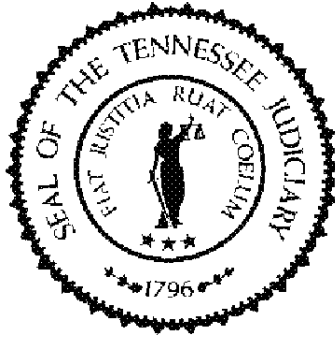
(1) A facsimile transmission received by the clerk after 4:30 p.m. but before midnight, clerk's local time, on a day the clerk's office is open for filing shall be deemed filed as of that business day. A facsimile transmission received after midnight but before 8:00 a.m., clerk's local time, on a business day, or a facsimile transmission received by the clerk on a Saturday, Sunday, legal holiday, or other day on which the clerk's office for filing is closed, shall be deemed filed on the preceding business day. Upon receiving a facsimile transmission in its entirety, the clerk shall note the filing date on the facsimile filing in the same manner as with original pleadings or other documents filed by mail or in person. For purposes of this provision, "received by the clerk" means the date and time the facsimile transmission is received by the clerk as indicated by the date and time printed on the facsimile transmission by the clerk's facsimile machine.

(2) A signature reproduced by facsimile transmission shall be treated as an original signature.

(3) The sender bears the risk of using facsimile transmission to convey a document to a

court for filing, including, without limitation, malfunction of facsimile equipment, whether the sender's or the clerk's equipment; electrical power outages; incorrectly dialed telephone numbers; or receipt of a busy signal from the clerk's facsimile telephone number. In the event that a facsimile transmission to the clerk is unsuccessful, the sender may file the document by mail or in person; in such cases, the filing date shall be determined as provided in Rules 20 and 21. However, if a facsimile transmission is not received in its entirety by the clerk because of a transmission error, the sender may move acceptance nunc pro tunc by filing a written motion with the court. The motion shall be accompanied by the sender's transmission record, the original document that was the subject of the attempted transmission, and an affidavit of the sender detailing the facts concerning the attempted transmission. The court, in its discretion, may order filing of the original document nunc pro tunc.

(d) Facsimile service charge. The sender of the facsimile transmission shall pay to the appellate court clerk a service charge for each facsimile filing in the amount of five dollars (\$5.00) plus one dollar (\$1.00) per page of the facsimile filing (including the cover sheet) as a photocopying charge for the clerk's processing of the facsimile filing. Payment of the service charge and photocopying charge, accompanied by a copy of the facsimile filing cover sheet, shall be received by the appellate court clerk not later than ten (10) calendar days after the facsimile filing. The facsimile service charge and photocopying charge shall be paid by the sender as provided in this rule and shall not be taxed as court costs. The trial court clerk shall not be liable for a facsimile service charge for filing any document that may be filed by the trial court clerk pursuant to this rule.



TENNESSEE APPELLATE COURTS
UNIFORM FACSIMILE FILING COVER SHEET

TO (COURT CLERK): _____

WITH (COURT): _____

CLERK'S FAX NUMBER: _____

CASE NAME: _____

DOCKET NUMBER: _____

TITLE OF DOCUMENT: _____

FROM (SENDER): _____

SENDER'S ADDRESS: _____

SENDER'S VOICE TELEPHONE NUMBER: _____

SENDER'S FAX TELEPHONE NUMBER: _____

DATE: _____ TOTAL PAGES, INCLUDING COVER PAGE: _____

FILING INSTRUCTIONS/COMMENTS (attach additional sheet if necessary):